

REMARKS

Claims 17-49 are pending in the application with the present amendments. The recitations in the claims have been thoroughly checked for antecedent basis and other requirements and applicants submit that the presently presented claims comply with the requirements of 35 U.S.C. §112. In the final Office Action, claims 17-25 were rejected under 35 U.S.C. §§102 and 103 as being unpatentable over U.S. Patent No. 6,912,586 to Achtermann et al. ("Achtermann")

With respect to the presently pending claims, *Achtermann* neither teaches nor suggests a system as claimed in claim 1 for distributing content data which includes a data server operable to distribute the content data to ones of the plurality of data terminals over an electronic data network in accordance with respective user-set content distribution schedules. The content distribution schedules are set by distribution requests of users of the ones of the plurality of data terminals. The data server is further operable to determine whether the electronic data network is congested before distributing the content data. When the data server determines that the electronic data network is not congested, the data server distributes the content data to the ones of the plurality of data terminals according to the respective user-set content distribution schedules.

Similar recitations are found in the other pending independent claims 26, 31 and 39.

In addition, *Achtermann* neither teaches nor suggests a system as claimed in claim 47, wherein the data server includes a database for storing individual information regarding individual levels of users of the plurality of data terminals, such that when the electronic data network is congested the data server is operable to obtain the individual information

regarding the individual levels of the users of the plurality of data terminals and to distribute the content data to at least some of the users in accordance with the respective user-set content distribution schedules when the individual levels of the at least some users are high.

Moreover, *Achtermann* neither teaches nor suggests the features of the system claimed respectively in claims 48 and 49.

Support for the present amendments is provided, *inter alia*, by FIG. 6 and by paragraphs [0066] through [0082] of the Specification, with particular reference to paragraphs [0074] to [0082].

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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